**Invited Testimony of**

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**Committee on Energy & Commerce**
**U.S. House of Representatives**

# "Disability Provisions of House Draft V2"

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Testimony Endorsed by:

Alliance for Public Technology
American Association of People with Disabilities
American Council of the Blind
American Foundation for the Blind
Association of Late-Deafened Adults
California Coalition of Agencies Serving the Deaf, Hard of Hearing, Inc.
Communication Services for the Deaf
Deaf and Hard of Hearing Consumer Advocacy Network
Deaf and Hard of Hearing Service Center Inc.
Inclusive Technologies
National Association of the Deaf
Northern Virginia Resource Center
for Deaf and Hard of Hearing Persons
Self Help for Hard of Hearing People
TDI/Telecommunications for the Deaf Inc.
WGBH National Center for Accessible Media
World Institute on Disability

## Summary of Testimony

Broadband is here to stay. The Nation urgently needs a coherent broadband policy. Consumers with disabilities must be consulted as policy is debated and shaped. That is why I am so pleased that the staff worked with disability-community representatives in fashioning the approach taken in this staff draft and that this Committee extended to me the privilege of testifying about it. The current House staff draft incorporates greatly needed and much-appreciated accessibility language, notably in sections 207 and 405. The potential impact of this language is significant, as it will enrich our lives, foster our independence, and enhance our opportunities for employment, education, and independent living.

**WRITTEN STATEMENT OF FRANK BOWE**

Good afternoon, Mr. Chairman, Congressman Dingell and members of the Committee. My name is Frank Bowe, and I am pleased to appear today to provide invited testimony on the second staff draft of a bill to revise and extend the landmark Communications Act of 1934. I am a professor at Hofstra University, on Long Island. I am testifying on my own behalf. This testimony is supported by the Alliance for Public Technology, American Association of People with Disabilities, American Council of the Blind, American Foundation for the Blind, Association of Late-Deafened Adults, California Coalition of Agencies Serving the Deaf, Hard of Hearing, Inc., Communication Services for the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, Deaf and Hard of Hearing Service Center Inc., Inclusive Technologies, National Association of the Deaf, Northern Virginia Resource Center for Deaf and Hard of Hearing Persons, Self Help for Hard of Hearing People, TDI (also known as Telecommunications for the Deaf Inc.), WGBH National Center for Accessible Media, and World Institute on Disability. These organizations together represent millions of Americans with disabilities who have a vital interest in making sure that the communications technologies of today and tomorrow will meet their communication needs.

Members of the Committee, our community has already come before you once this year to address accessibility issues, when Karen Peltz Strauss testified to the Subcommittee on Telecommunications and the Internet on April 27. My testimony builds upon her statement, with the important advantage of being able to applaud your staff draft's treatment of the issues she discussed.

Permit me to preface my remarks by noting that Americans with disabilities are daily using, and greatly benefiting from, Internet-enabled communications technologies that have emerged since enactment of the 1996 Telecommunications Act. When I demonstrated broadband two weeks ago in the Dirksen Senate Office Building, Senator Conrad Burns of Montana spoke movingly about a 12-county area in his State that did not have a single physician. Broadband, the Senator reported, is crucial to the well-being of his constituents. To illustrate, in the 1970s Howard Rusk, a pioneer in rehabilitation medicine, told me that life expectancy for people with quadriplegia was about five years post-injury. Today, it is a great deal longer, due to increased knowledge about how to treat such secondary conditions as autonomic dysreflexia. But that expertise is not universal among primary-care providers. It resides at the Rusk Institute at NYU, the Shepherd Center in Atlanta, and at the Rehabilitation Institute of Chicago. Broadband extends their ability to provide quality care to Dearborn, Michigan, and Cheyenne, Wyoming. To use another example, dermatoscopy takes pictures several skin layers deep. Broadband instantly transmits the images to a specialist. As a result, a dermatologist in Dallas/Fort Worth can diagnose a skin condition of a patient in Clearwater, Florida, as accurately as can a local one.

Likely, those dozen counties in Montana do not have a single sign-language interpreter, either. Broadband can connect consumers with interpreters irrespective of geographical location. This has the added advantage of eliminating the wasted travel time of interpreters, making them more available to meet our needs.

Let me shift now to consumer use of the Internet and of broadband. A report this year by the Pew Internet and American Life Project found that 68 percent of adults use

the Internet. The Census Bureau reported, on the same day that I demonstrated broadband in the Senate, that home access to the Internet has now passed the half-way mark nationwide. A large and rapidly growing proportion are broadband subscribers who use it not only for shopping but also for public policy participation, education, and communication with family, friends, and coworkers. For a glimpse into the near-term future, consider that the teen site MySpace.com had more hits in August than did Google: 9.4 billion page views. New users of the site are signing up at a rate of better than three million a month. This is yet another indication that broadband is here to stay.

Here is my point: Consumers are driving the broadband engine. They are rapidly making broadband an indispensable part of the fabric of everyday life in this country. Consumers should have a seat at the table as broadband policy is set. That is why I so much appreciate the fact that the staff draft offers much-needed disability consumer protections. It is also why I appreciate this invitation to testify today.

People with disabilities, simply stated, believe that broadband should be available everywhere, at affordable rates. Our aim should be to accelerate the creation of a broadband umbrella that covers the country. Our policy should be to regulate evenly across platforms, so as to ensure disability access across all communication platforms. This means applying the same standards to wireline, wireless, cable, and satellite providers and suppliers. That, in turn, necessitates federal rules for accessibility.

People with disabilities, as well as their families – the Census Bureau reported this summer that 21 million American families include at least one person with a disability – friends, coworkers, and others, not to mention my students, will win with rapid deployment everywhere of broadband, particularly fiber to the curb and even to the

home, featuring high speeds in all directions. It is not enough just to have it downstream, with much slower speeds upstream. Bidirectional peer to peer interactions at high speed enable each of us to be creators, and not just consumers, of broadband-provided content. While many of us use, and benefit from, today's level of DSL and cable-modem broadband, as I demonstrated to this Committee in June, and to the Senate Commerce Committee last month, high-speed connections in both directions, with rapidly refreshed frames, greatly improve video communications, particularly in sign language. In this as in other areas, we must bear firmly in mind a lesson learned from the 1996 Act: legislation needs to address, and foster, tomorrow's technologies and not just today's.

With advanced telecommunications products and services, our daily lives will be improved, as we access more information, make better-informed consumer choices, and enjoy much richer and more rewarding interactions with family and friends. Our education will no longer be limited to geographically proximate institutions. Our employment will be supported and our ability to work flexible schedules enhanced.

Critical to these improvements are the disability consumer protections contained in the staff draft. The organizations supporting my testimony today greatly appreciate inclusion of protections in this draft to ensure that broadband products and services are accessible to and useable by people with disabilities. For example, the staff draft requires that video be captioned when it is streamed over the Internet, as it increasingly is. Currently, section 713 of the Communications Act mainly requires captioning only for broadcast, cable-cast, and satellite television programming, largely because Internet video was not available in 1996. Similarly, the staff draft, in section 207, defines relay services to include video, and not just text, communications for people who are deaf, hard of

hearing, and/or speech-impaired. It calls for interoperability of Internet-enabled relay services, including video relay.

When Congress amended the Communications Act in 1996, it added section 255, calling for equipment and services to be accessible to and useable by people with disabilities. But to date, that section has been interpreted to apply only to the public switched telephone network, not to the Internet. This was, of course, because scarcely anyone used the Internet for voice or video communications in 1995 and early 1996. The staff draft, in section 405, extends these accessibility requirements to broadband products and services. And, recognizing that today's telecommunications products are electronic, into which accessibility can easily and readily be incorporated during the design stage, the staff draft requires that makers and providers of new broadband products and services provide access unless doing so would present them with an undue burden. The 1996 Act, reflecting an earlier era, one characterized by already-existing products and services, allowed a lower readily achievable standard. As Ms. Strauss noted in her April testimony, the fact that today's communications Internet Protocol technologies rely more on software-based solutions makes it easier, faster, and less costly to implement access features than had been possible with many previous telecommunications technologies

All of this matters, and matters urgently. Just three out of every ten adults with disabilities today are employed. Broadband promises to help because it is always-on, high-speed, voice/video/data communications. Many deaf and hard of hearing Americans are using instant messaging daily, now video as well as text. They are signing to each other, using digital video cameras and webcams. Signing over video connections offers the closest possible functional equivalence to voice telephony between persons

who can hear. In the workplace, IM and video conferencing permit instant accessibility. They lower the cost to employers of accommodating a worker who is deaf, by alleviating the need for interpreting services except for formal, in-person meetings.

The House draft access language for broadband equipment and services is vital for people who are blind or visually impaired who must often struggle with graphical-only interfaces or other inaccessible equipment and service which, increasingly, restrict access to vital broadband communications. In addition, because broadband is digital, it also speeds up conversion of written material into formats that people who are blind can use - large print, speech, and even Braille. This lowers the cost to employers and educators of accommodating people who are blind or visually impaired.

And of course broadband supports telecommuting. While some Americans with disabilities may not opt to telecommute, others will, because broadband helps people with chronic health conditions or physical disabilities to expend far less energy in nonproductive commutes and to leapfrog those transportation and architectural barriers which remain.

With respect to education, the 2004 reauthorization of the Individuals with Disabilities Education Act explicitly permits video conferencing for Individualized Education Program (IEP) team meetings. Teens with disabilities may participate in video conferencing sessions, as may parents with disabilities, through broadband-enabled access, including remote interpreting and document accessibility. As a university professor, I am daily reminded how colleges increasingly use electronic media for everything from course registration to assigned readings to submission of student work. I found it necessary this fall to write, for Hofstra University, a primer on how to make our

Internet2-based digital environment accessible to students, staff and faculty with disabilities. I see a similar need here. Broadband, if made accessible in the ways envisioned by the staff draft, will greatly contribute to the post-secondary education of people with disabilities.

Broadband, I am convinced, will not only improve the quality of medical care for our most vulnerable citizens but also will help to conserve public resources. To illustrate, while people with disabilities account for 16% of Medicaid beneficiaries, because their annual medical costs are higher than are those of Medicaid recipients who do not have disabilities, their care accounts for 43% of Medicaid spending. In 2003, for example, Medicaid costs for persons with disabilities added up to $80 billion. Broadband will help us to enhance quality of services while also constraining costs. It will do so by enhancing preventative care, by permitting better monitoring of people's health, and by enabling them to live and work more productively.

Broadband helps older Americans live at home longer, by affording them instant contact with family and caregivers, reducing costs of institutional care. Similarly, wireless broadband supports independent living in the community of persons with intellectual disabilities and many with mental and emotional disorders. This includes individuals who were deinstitutionalized pursuant to the Supreme Court's 1999 decision at Olmstead. Two cell phones, the TicTalk, from Enfora, and the Firefly, from Firefly Mobile, are illustrative. Each has just a few buttons. Each is pre-programmed with numbers for family, employer and emergency support personnel. By touching just one button, a person can instantly be in two-way communication to ask questions, receive directions, and request in-person assistance. These cell phones promise to allow a small

team of counselors to provide independent-living and employment support to a large number of individuals in a community, at much lower per-person, per-year support costs than are otherwise available. Manufacturers could add two-way video to these handhelds, for even easier and more effective two-way communication.

Before I close, let me not overlook universal service. I know that this Committee and the Federal Communications Commission as well prefer to deal with universal service next year rather than this. Universal service is absolutely essential to the continued vibrancy of our Nation's public communications. We must find ways to protect and preserve it despite present threats to its funding base as our nation shifts to Internet-enabled communications technologies. Specifically, we must make sure that providers of these technologies are equally bound to contribute to the support of universal service programs, including relay services, that are designed to make communications accessible and affordable for all Americans.

In closing, let me thank you for considering our views and, in the staff draft, for responding to the needs of people with disabilities. For Americans with disabilities, a new national policy on broadband is urgently needed. Many of the communications technologies we use today, and those we are excited to think about using tomorrow, have and will emerge in the post 1996 Telecom Act "world". Critically important disability access provisions will exist only if Congress enacts an updated framework for telecommunications.

Thank you.